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PROPOSED ATTORNEY FOR DEBTOR

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

## EMERGENCY MOTION TO TURNOVER PROPERTY OF THE ESTATE

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, Texoma Auto Remarketing, LLC Debtor in the above styled and numbered cause, files this its Emergency Motion to Turnover Property of the Estate (“Motion”), and in support thereof would respectfully show unto the Court as follows:

1. On or about March 15, 2022, Debtor filed its Voluntary Petition for relief under Chapter 11 of the United States Bankruptcy Code and has continued in possession of its property and operation of its business as a Debtor-in-Possession pursuant to §§ 1182 of the Bankruptcy Code.

2. The Debtor's business consists of the purchase and sale of new and used

automobiles.

3. The Debtor's business does not operate as a traditional automotive dealer. The Debtor purchases vehicles and immediately resells the vehicles at auto auctions.

4. Prior to the filing the Debtor sold its vehicles almost exclusively at Manheim Auctions, Inc. ("Manheim").

5. Under the procedures at Manheim once a vehicle was sold through the auction, Manheim does not pass on the funds to the seller until documents transferring title have been received. As a result there are sometimes delays between the time of sale and Manheim delivering checks to the seller.

6. Based upon information provided by Manheim, Manheim is currently in possession of funds of the Debtor in the amount of at least \$244,495 ("Funds").

7. Prior to the filing of this case, the Debtor was involved in litigation styled Stephen Rapp, Plaintiff v. Texoma Auto Remarketing, LLC, Dustin Ford, Individually, and dba MFDF Transportation, LLC, (A Montana Limited Liability Company), Defendants, v, First United Bank & Trust Company, Third party Plaintiff v. Dustin Ford, Stephen Rapp, Texamo Auto Remarketing, LLC and MFDF Transportation, Defendants Case CV-21-1621, 397<sup>th</sup> Judicial Distrcit Grayson County, Texas ("State Court Action").

8. In the State Court Action both Stephen Rapp ("Rapp") and First United Bank & Trust Company ("Bank") claims that the Debtor owed them funds an demanded that Manheim not turn over the Funds to the Debtor.

9. Manheim has filed an Interpleader action in the State Court Action seeking to Interpled the Funds.

10 It is undisputed that the Funds are owed to Debtor.

11. Neither Rapp nor First have any lien against the Funds.
12. The Debtor is in need to the Funds to continue operations and propose a Plan of Reorganization.
- 13.. Manheim acknowledges that the Funds belong to the Debtor but is unwilling to turn over the Funds absent an Order from the Court.
14. Debtor requests that Manheim be Ordered to immediately release the Funds to the Debtor.

WHEREFORE, PREMISES CONSIDERED, Debtor, Texoma Auto Remarketing, LLC respectfully prays this Honorable Court enter an Order that Manheim immediately release the Funds to the Debtor, and for such other and further relief, at law or in equity, to which Debtor may show itself justly entitled.

Respectfully submitted,

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BY: /s/ Eric Liepins  
ERIC A. LIEPINS, SBN 12338110

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was sent to Manheim Auctions, Inc., by and through its counsel of record, Jose Luzarraga at [Jose.Luzarraga@butlersnow.com](mailto:Jose.Luzarraga@butlersnow.com), Stephen Rapp by and through his counsel of record, Abigail Campbell at [acampbell@condontobin.com](mailto:acampbell@condontobin.com), First United Bank through its counsel of record, William Riley Nix at [riley\\_nix@yahoo.com](mailto:riley_nix@yahoo.com) And to Dustin Ford and MFDF Transportation through its counsel of record J Stephen Hunnicutt at [Steve@HunnicuttLaw.com](mailto:Steve@HunnicuttLaw.com) and the United

States Trustee on this the 15<sup>th</sup> day of March 2022.

/s/ Eric Liepins \_\_\_\_\_  
Eric A. Liepins